IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 17561 of 2007(N)

PETITIONERS:

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1. KURUPPUMPADY SERVICE CO-OPERATIVE BANK LTD.NO.E.257, KURUPPUMPADY, REPRESENTED BY ITS SECRETARY K.N. SARADA.

2. KURUPPUMPADY SERVICE CO-OPERATIVE BANK LTD. NO.E.257, KURUPPUMPADY, DIRECTOR BOARD, REPRESENTED BY ITS PRESIDENT, ITTOOP K.ARACKAL.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS:

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1. T.K. DAVID,
THOTTIPARAMBIL HOUSE, VENGOLA P.O., ERNAKULAM.

2. THE CO-OPERATIVE ARBITRATION COURT,
THIRUVANANTHAPURAM.

3. THE KERALA CO-OPERATIVE TRIBUNAL,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI.N.SUKUMARAN
SRI.S.SHYAM
SRI.N.K.KARNIS
R2 & R3 BY GOVT. PLEADER SRI. P.N. SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.17561 of 2007

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Dated this the 13th day of June, 2007

JUDGMENT

Petitioner challenges Ext.P1. Against Ext.P1 petitioner preferred Ext.P2 appeal. Petitioner seeks a further prayer to dispose of Ext.P2 appeal within a stipulated time, till then stay the arbitration case pending before the second respondent. According to the petitioner, the first respondent is the dismissed Secretary of the Bank. The Arbitration Court vide Ext.P1 set aside the enquiry report filed by the Enquiry Officer and further directed that the plaintiff and the defendant have liberty to prove their case before this court. It is further ordered that at this stage the court is not interfering with the findings of the Sub Committee and the Appeal Committee of the defendant management against the plaintiff. Case of the petitioner is that the petitioner moved an application for stay, which was declined. According to the petitioner, if the Arbitration Case is allowed to be proceeded with, the appeal itself would become infructuous.

2. I heard learned counsel for the petitioner, Sri. N.Sukumaran counsel appearing for the first respondent and the learned Government Pleader. Learned counsel for the first respondent would submit that there was an earlier round of litigation resulting in a judgment of the Division Bench fixing time limit for the disposal of the case before the Arbitration Court. He impressed upon me the urgency of the matter as the first respondent is kept out of service. He further submitted that Ext.P2 appeal itself is not maintainable.

Having heard counsel for the parties, the writ petition is disposed of directing the third respondent to consider and take a decision on Ext.P2 appeal in accordance with law within a period of six weeks from the date of production of a copy of this judgment before the third respondent. Till the appeal is disposed of, Ext.P1 order shall be kept in abeyance. I further make it clear that this direction should not be treated as my seal of approval on the maintainability of Ext.P2 appeal. It is perfectly open to the first respondent to contend before the third respondent that Ext.P2 appeal is not maintainable in law, in which

event, the third respondent will certainly consider the said contention also.

(K.M. JOSEPH, JUDGE)

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